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EXAMINER

PATEL, HARESH N

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/881,919

Applicant(s)

BODIN ET AL.

Examiner

Haresh Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25,27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. Claims 1-28 are presented for examination. Claim 25 and Claim 26 both refer to same claimed limitations. Misnumbered claims 1-28 have been renumbered as claims 1-27. Hence, renumbered claims 1-27 are used for examination.

#### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-27, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No.09/882174. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of independent claims 1, 7, 10, 16, 19, 25 are similar to claim 1 of copending Application No. 09/882174. The limitations "remote direction of streaming digital content from a content server to a client devices using remote director" is equivalent to the use of content information, transcoding gateway for providing director instructions to stream digital content, and the use of email containing digital content.

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The concept of the use of macro control and macro instructions is well known in the art. The limitations of dependent claims 2-6, 8, 9, 11-15, 17, 18, 20-24, 26, 27, are similar to claims 2-22 of copending Application No. 09/882174.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 1-27, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10-15 of copending Application No. 09/881915. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of independent claims 1, 7, 10, 16, 19, 25 are similar to claim 1 of copending Application No. 09/881915. The limitation "remote direction of streaming digital content from a content server to a client devices using remote director" is equivalent to the use of a content server through which digital content is transcoded into streams of multimedia data, the streams communicated via network to client devices, use of the digital content for streaming, use of remote director instructions comprising hyperlinked URLs invoked through a network-capable device. The concept of the use of macro control and macro instructions is well known in the art. The limitations of dependent claims 2-6, 8, 9, 11-15, 17, 18, 20-24, 26, 27, are similar to claims 2-12 of copending Application No. 09/881915.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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4. Claims 1-27, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No.09/881917. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of independent claims 1, 7, 10, 16, 19, 25 are similar to claim 1 of copending Application No. 09/881917. The limitation "remote direction of streaming digital content from a content server to a client devices using remote director" is equivalent to the use of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices, use of network of digital computers comprising a content server. The concept of the use of macro control and macro instructions is well known in the art. The limitations of dependent claims 2-6, 8, 9, 11-15, 17, 18, 20-24, 26, 27, are similar to claims 2-20 of copending Application No. 09/881917.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 1-27, are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No.09/882173. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of independent claims 1, 7, 10, 16, 19, 25 are similar to claim 1 of copending Application No. 09/882173. The limitation "remote direction of streaming digital content from a content server to a client devices using remote director" is equivalent to the use of remote direction of streaming digital content from a multiplicity of sources of digital information to a multiplicity of client devices upon a network of

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digital computers comprising a content server receiving digital content from the sources and the digital content having a multiplicity of digital formats. The concept of the use of macro control and macro instructions is well known in the art. The limitations of dependent claims 2-6, 8, 9, 11-15, 17, 18, 20-24, 26, 27, are similar to claims 2-11 of copending Application No. 09/882173.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Specification***

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The present title is not sufficient for proper classification of the claimed subject matter.

7. The disclosure is objected. Some of the informalities are:

- i. The "BRIEF SUMMARY OF THE INVENTION" section should contain brief description of the disclosed subject matter rather repetitive claimed language of the claims.
- ii. Unless the invention is created from scratch, applicant needs to provide all the prior arts that have led to the invention, i.e., existing patents and publications related to the claimed subject matter. In response, applicant is requested to provide the title, citation and copy of each publication related to the claimed subject matter. For each publication, please provide a concise explanation of that publication's contribution to the description of the prior art.

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Appropriate correction is required.

### *Drawings*

8. New formal drawings are required in this application because submitted drawings are informal (hand drawn). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### *Claim Objections*

9. Claims 7, 8, 9, 19-27 are objected to because of the following informalities:

Claims 7 and 19 mentions "." (end of claim), in the middle of the claimed subject matter, after "machine-readable store, the digital content", line 13, which is incorrect. Examiner considers it as ";" (semicolon), for examine purpose.

Claim 8 mentions that "The method of claim 2", which is incorrect. Examiner considers it as "The method of claim 7", for examine purpose.

Claim 9 mentions that "The method of claim 5", which is incorrect. Examiner considers it as "The method of claim 7", for examine purpose.

Claims 20, 21, 23, 24 mentions that "The computer program product of claim 10", which is incorrect. Examiner considers it as "The computer program product of claim 19", for examine purpose.

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Claims 22 mentions that "The computer program product of claim 12", which is incorrect. Examiner considers it as "The computer program product of claim 21", for examine purpose.

Claim 25 contains "26" number in middle of the claim, which needs to be removed.

Claims 26 mentions that "The computer program product of claim 16", which is incorrect. Examiner considers it as "The computer program product of claim 25", for examine purpose.

Claims 27 mentions that "The computer program product of claim 17", which is incorrect. Examiner considers it as "The computer program product of claim 25", for examine purpose.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 2 recites the limitation "the original raw form". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***



12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Java Media Framework API Guide, JMP 2.0 FCS, November 19, 1999, Sun Microsystems, page 1-66, 109-135, 173-178 (Hereinafter Sun) in view of Application Server Solution Guide, Enterprise Edition: Getting Started, Nusbaum, May 2000, Nusbaum et. al., pages 1-45, 416-434 (Hereinafter Nusbaum) and in further view of "OpenJava: A Class-based Macro System for Java", Tatsubori et al., In reflection and software engineering, pages 119-135, July 2000 (Hereinafter Tatsubori).

14. As per claims 1, 7, 10, 16, 19, 25, Sun teaches a method, a system and a computer program product to implement streaming (e.g., streaming media, page 4) digital content (e.g., MPEG, JPEG, etc., video formatted content, page 6), in conjunction with a system that provides streaming digital content from a multiplicity of sources of digital content (e.g., variety of media sources providing media contents over networks, page 3) to a multiplicity of client devices (e.g., media content receiving media devices, page 3), the system including a content server (e.g., server providing video contents, page 5) through which digital content is transcoded (e.g., transcoding the video contents, page 33), into output streams (e.g., output stream, page 33), the output streams communicated via network to client devices (e.g., media receiving devices across network, page 3), the digital content selected for inclusion in output streams in dependence upon instructions (e.g., instructions for controlling media streams, page 43), by:

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establishing a time for an event, the event comprising a multiplicity of sources of digital content (e.g., starting the media presentation, page 50);

recording in non-volatile, machine-readable storage, the digital content (e.g., page 115),

storing in computer memory, during the duration of the event, function comprising a URL and a time (e.g., time based URL information, page 4), the URL being a hyperlinked URL component of an instruction (e.g., using HTTP protocol, page 4), the first time being the time after the first start time when the URL was first invoked through a hyperlink as part of a instruction for control of streaming digital content (e.g., handling start time of the media information, pages 48 and 50), the functions being stored in the order in which the URLs are first invoked through hyperlinks and function comprising URL (e.g. sequence of instructions handled for handling time based media information, pages 49 and 50),

establishing a second time for retransmitting the event (e.g., retransmission of the media information if lost or corrupted, page 110);

the event comprising a multiplicity of sources of digital content formats (e.g., several media formats, page 6);

reading from computer memory the functions in the order in which the functions were stored (e.g. sequence of functions handled for time based media information, pages 49 and 50);

invoking each URL of each function as a hyperlink at a second elapsed time after the second time (e.g., use of sequence of time based URL for different functions for controlling the media player to respond several media events for playing MPEG movie by synchronized multiple media streams from different sources, page 61),

retrieving from the non-volatile, machine-readable storage, transcoding, selecting for inclusion in output streams, and communicating to client devices, in dependence upon instructions, the digital content, whereby is effected a retransmission of an event (e.g., retransmission of the media information if lost or corrupted, page 110).

the second time being approximately equal to the first elapsed time of the function, establishing a first start time for an event, the event having a duration, (e.g., setting the playback rate depending upon the elapsed timing of the factions compared to the next timing of the event, page 47).

However, Sun does not specifically mention about use of remote director instructions comprising hyperlinked URLs invoked through a network-capable device and for each URL in an instruction a computer program that is executed when the URL is invoked.

Nusbaum clearly teaches use of remote director instructions (e.g., use of servlets and JSPs directed by clients/administer over network, pages 13 and 36) comprising hyperlinked URLs (servlet URLs, page 2) invoked through a network-capable device (e.g., network device, page 13) and for each URL in an instruction a computer program that is executed when the URL is invoked (e.g., servlet to be used specified by the servlet aliases, page 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sun with the teachings of Nusbaum in order to facilitate transforming of the objects that are selected based on remote director instructions. The well-known concept of handling remotely provided URL references to the servlets for execution would be supported the server providing the media information of the Sun. The Sun's teachings would help transcode information of the objects/information that are specified by the remote

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directions. Any media object based on timing events can be handled by the remote directions, as per Nusbaum.

However, Nusbaum and Sun do not specifically mention about the use of macro control system and the use of macro to perform the functionality of the function. Tatsubori teaches the well-known use of macro control system and the use of macro to perform the functionality of the function (e.g., use of metaobjects representing logical entities of a program, page 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Nusbaum, Sun with the teachings of Tatsubori in order to facilitate transforming of the objects using a gateway/server. The well-known use of metaobjects would be used to program the sequence of events based on time information, as per Tatsubori's teachings.

15. As per claims 2, 11, 20, Sun teaches the claimed limitations as following:

recording approximately the original raw form of the digital content (e.g., capturing time based media with JMF, Appendix A, page 173).

16. As per claims 3, 4, 12, 13, 21, 22, Sun teaches the claimed limitations as rejected under claims 1, 10 and 19. However, Sun does not specifically mention about executing upon a content server through a Java servlet within the content server computer programs identified by the URLs and use of Java thread-level URL dispatch routines.

Nusbaum teaches executing upon a content server through a Java servlet within the content server computer programs identified by the URLs (e.g., page 2, section 2.1.1.1, pages 31 and 32),

Java thread-level URL dispatch routines (e.g., section 1.2.2, page 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sun with the teachings of Nusbaum in order to facilitate transforming of the objects using URL and servlet. The well-known concept of handling URL references to the servlets for execution would be supported the server providing the media information of the Sun. The Sun's teachings would help transcode information of the objects/information using the servlets and URL. Any media object based on timing events can be handled by URL and servlets, as per Nusbaum.

17. As per claims 5, 6, 14, 15, 23, 24, Sun teaches the claimed limitations as following:

selecting for inclusion in output streams (e.g., use of output streams, page 46), and communicating to client devices are all carried out in dependence upon user preferences (e.g., usage User interface components based on user's custom control selections, page 46), user demographics (e.g., usage of user's using custom controls, page 46), and client device attributes (e.g., setting the playback rate depending upon the client device, page 47), current real time remote instructions received from a director coupled to the server (e.g., usage User interface components based on real time needs, page 46).

18. As per claims 8, 9, 17, 18, 26, 27, Sun teaches the claimed limitations as following:

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use and handling of video stream and registering a user for a retransmission of an event (e.g., registering for start, stop, page 24), the retransmission of an event identified by an event identification code (e.g., retransmission of an event based on the event code, page 24), the retransmission of an event comprising at least one video stream (e.g., video streaming, page 24), at least one source, a start date and a start time (e.g., start, stop, timings including date information, page 24, page 21, JMF support for video streaming),

communicating to at least one of the client devices the output video stream further comprises communicating the output stream to the network address (e.g., sending video stream to the device across network, hence inherent use of network address, page 3).

However, Sun does not specifically mention about logging in the user and login attributes.

Nusbaum clearly teaches the concept of logging in the user for the retransmission of an event, logging in the user further comprising assigning values to user login attributes, the user login attributes comprising user identification, device type, network address, and a tier (e.g., section 8.1.8.1, page 417, section 2.1.5.1, page 41, section 2.1.1.3, page 36);

assigning a tier value in dependence upon the device type and the event identification code / subscription level (e.g., section 8.1.8, page 417, section 2.1.5.1, page 41, section 2.1.1.3, page 36);

wherein the selections are dependent upon the tier (e.g., section 8.1.8.1, page 417); wherein transcoding further comprises transcoding in dependence upon the tier (section 8.1.8.1, page 417, section 2.1.5.1, page 41, section 2.1.1.3, page 36).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sun with the teachings of Nusbaum in order to facilitate use and handling of video stream and registering a user for a retransmission of an event identified by an event identification code with a video stream with a start date and a start time. The well known concept of the use and handling of video stream and registering a user for a retransmission of an event identified by an event identification code with a video stream with a start date and a start time would be supported the gateway/server by the servlets, URLs and the Enterprise Java beans. The gateway/server would help transform / transcode information of the objects/information that are used for streaming based on user needs. Any object can be used for transforming and the programs/ user control related accessing that support the user specific control functionality can be used for transforming the objects for video streaming based on remote instructions.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is 703-605-5234. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 703-305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

September 5, 2004



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